

get this all worked out. And if we can, it would be really great. If we cannot, we will just go out and come back in the morning. I have had that on my mind all week anyway. So we can do that.

Mr. FORD. Would the Senator yield?

Mr. LOTT. I would be glad to.

Mr. FORD. I have no objection to the recess. But we do have a couple Senators that were on their way to make some remarks on our side. If you could withhold that or set it at the end of the statements by Senator KENNEDY and Senator WYDEN and maybe Senator BAUCUS, because those three would like to make some remarks. That way we would not be wasting the time.

Mr. LOTT. As long as there are Senators who would like to speak, obviously, we want to allow that. If those three are going to speak, we would probably want to have maybe some response on our side. But when we reach the point where Senators are not here speaking, instead of just keeping everybody here waiting, I would propose we recess then until 2:30. But at 2:30, regardless, I will move to get this underway.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. When Senators have had their say, I will come back and ask that we stand in recess until 2:30. But we will wait on that.

Mr. FORD. With that understanding, Mr. President, I do not think anybody has any problem with that at all. I do have some colleagues that would like to make some remarks. And listening to the majority leader, you may have somebody that would like to come over and make some remarks too after these three Senators have on our side.

Mr. LOTT. We may eat up the time.

Mr. FORD. With the \$435 a page, or whatever it is, it costs to print the RECORD.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

HEALTH INSURANCE CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I am very hopeful, and I know the American people are, that we will move ahead this afternoon on the conference report dealing with the Kassebaum-Kennedy bill. As we know, it was a year ago today that we passed that bill out of the Human Resources Committee. It languished for close to 9 months on the Senate calendar before it was considered. Then it was considered. And it has been several more months before we were able to get resolution of the principal items which were at issue,

the portability issue, the MSA issue and the other provisions in the legislation. And we saw a successful conclusion of those issues just some 2 days ago. All of us are very eager to get that measure down to the President of the United States.

However, I must say, a number of us were very surprised to find that our staffs, around 10:30 or 11 o'clock the night before last, after a number of us were assured that there were only technical corrections in the legislation, discovered that a special provision had been included into the act at page 76. That special provision, which no one knew about, was a patent extension and special treatment for a drug called Lodine which people take for arthritis. And now that is in the health care legislation that we all want to get to the President of the United States as soon as we can. But, this afternoon we are faced with this special interest provision being put into the whole proposal.

I just want to make it very clear that neither I nor do I understand any other Member of our side, and to the best of my knowledge on the other side, had any idea whatsoever that this special interest provision benefiting a single company had been included in the health care bill. It is a special interest provision for one particular company that has annual revenues from this one drug, Lodine, of some \$275 million.

The special interest provision gives that company 2 additional years of patent protection and other special benefits. As I understand it, in return, the company would have to pay \$10 million each year for a total of \$20 million to the Federal Government and pay the States so they do not have to pay for the increased costs due to the patent extension.

So the question is, Who pays? Well, the answer to that is, everyone else in America will pay more for Lodine. Every senior and every American who uses this arthritis drug will pay more because this special provision says no one else can compete with this drug for 2 more years. This provision eliminates competition and gives this company a monopoly, which means it can charge whatever it wants for its drug. Our seniors and everyone else will be paying the bill for this special interest provision.

The question is, then, How much more? How much more money will people have to pay? We know that generic competitors historically undercut the price of drugs like Lodine by 30 to 50 percent. That means that when a patent expires, other companies can make and sell inexpensive generic versions of the drug to compete. This provision means that there can be no competition for 2 more years and that means Americans will pay between \$80 to \$130 million more each year for this sweetheart deal.

Now, Mr. President, we all know that this sweetheart deal will cause all the other companies to come in here and ask for special favors also. This deal

for one drug will open the floodgates and will cost consumers hundreds and hundreds of millions of dollars.

Mr. President, the claim is made that we ought to go ahead with this special deal because their competitor has received an extension. That a competitor, called Daypro, got a deal stuck into the continuing resolution in April 1996, without any hearings, without any testimony, without any public review by the committees with jurisdictions, does not make this right. It is an old saying, but it is true: Two wrongs do not make a right. Because one snuck through, we cannot do it again and again and again.

It will not stop with Lodine. There are 12 drugs in this class on the market. You do this for Lodine, and the other 10 will be here tomorrow. In fact, in the last 2 weeks alone, three or four of those other companies have already been in this building asking for special treatment like Lodine. It will not stop here. The special interests will be banging at the door.

Mr. President, this is not really a new issue for some Members of the Senate because there was an effort to include a special deal for Lodine in June 1996, in the Defense authorization bill in the Senate as part of the Hatch-Specter GATT loophole closing legislation. But, then the lobbyists started lining up asking for special treatment for other drugs. They claimed that if Lodine gets special treatment, then they we would have to do it for others.

Then there was the Bliley-Dingell letter to the Defense conferees saying, "Take Lodine out". And the House Judiciary also objected to Lodine, and the conferees took Lodine out of the Defense authorization bill.

That didn't stop the Lodine special provision. The special deal for Lodine was put into the House agricultural appropriations bill in July. But, Senator PRYOR and Senator CHAFEE drafted a letter dated July 26, 1996 to Senator COCHRAN and Senator BUMPERS saying there was no merit and no basis for a Lodine extension. They said there were no hearings or deliberations of any kind in either the House or the Senate to determine if there were any public purpose served by granting this special extension. They urged that it be taken out of the agricultural appropriations bill.

At about the same time, the Senate health care conferees were appointed on July 25. And on July 30, the Republicans gave the Democrats a draft of this section of the health care bill. That draft was dated June 25, but it had no provision relating to the patent extension.

Then, at about the same time, the agriculture appropriations conferees took the special provision for Lodine out of the bill. That, I believe, was also on July 30.

Now, back to the health care bill. On July 31, there were extensive negotiations on both of the issues of portability and on the MSA issues.